



JOHN H. HERSH  
ATTORNEY AT LAW  
FIRST FEDERAL BUILDING  
PEEKSKILL, N. Y. 10566

(914) 739-4200

OUR FILE NO.

April 4, 2012

United States District Court Judge Cathy Seibel  
United States District Court  
200 Quarropas Street  
White Plains, New York 10601

Re: Wesley B. Artupe v. Paul Bluhdorn  
and Paige Bluhdorn  
11-CIV-5891

Dear Judge Seibel:

We represent a defendant, Paige Bluhdorn, 333 Sarles Street, Mount Kisco, New York 10549, in the above entitled action; and this letter is written in response to the Court's endorsement dated February 22, 2012, to our letter request for a pre-motion conference in accordance with the Court's individual practices [2(A)] dated February 21, 2012, with respect to the claims of the plaintiff, Westley B. Artupe, and, specifically, his first, second and third causes of action in his complaint dated August 16, 2011.

It will be argued by the defendant, Paige Bluhdorn, that even in its most expansive definition, she was not an employer of the plaintiff, Westley B. Artupe, at any time including the period of time in issue, September 19, 2008 to July 20, 2009, as that definition has been interpreted both under Federal and New York Law.

At no time did she act directly or indirectly in the interest of her husband, the defendant, Paul Bluhdorn, in relation to any of his employment of the plaintiff, Westley B. Artupe. 29 U.S.C. Section 203(d) and New York Labor Law Sections 2(6) and 651(6).

His wife, the defendant, Paige Bluhdorn, had absolutely no power to control the plaintiff, Westley B. Artupe, with respect to his hiring, firing, supervision, work schedule, rate and method of payment nor the maintenance of any employment records; and, most importantly, the complaint of the plaintiff, Westley B. Artupe, dated August 16, 2011, does not even allege such required facts which would lead to her potential liability.

For all of the above reasons, the defendant, Paige Bluhdorn, has clarified her arguments

United States District Court  
Judge Cathy Seibel

- 2 -

April 4, 2012

Re: Westley B. Artope v. Paul Bluhdorn  
and Paige Bluhdorn  
11 CIV-5891

concerning the claims of the plaintiff, Westley B. Artope, set forth in his complaint dated August 16, 2011, in his first, second and third causes of action, as directed by this Court on February 22, 2012, in its endorsement to her request for a pre-motion conference in accordance with the individual practices of this Court [2(A)]; and at the pre-motion conference to be held on April 19, 2012, she will renew, again, her request to apply to this Court under Federal Rule of Civil Procedure 12(b)(6) for dismissal of the complaint dated August 16, 2011, with respect to her, because any claim of her liability is merely speculation; and in reality the plaintiff, Westley B. Artope, is merely trying to use the power of the Federal Judiciary to squeeze out a settlement.

Lastly, the initial mediation session was completed at this Courthouse on March 21, 2012, with Richard C. Marquette, Esq., Goldblatt, Marquette & Rashra, P.C., 60 Washington Avenue, Suite 302, Hamden, Connecticut 06518, as directed by the Court on or about January 23, 2012.

Yours very truly,



JOHN H. HERSH (JH 1548)

JHH:pf

cc: Neil H. Greenberg, Esq.  
900 Merchants Concourse, Suite 314  
Westbury, New York 11590  
Fax No.: 516-228-5106

cc: Bennett H. Last, Esq.  
708 Third Avenue, 26<sup>th</sup> Floor  
New York, New York 10017  
Fax No.: 212-661-6328